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Counsel for Defendant JOSE GALLARDO

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	No. CR 14-70537-MAG
	)	
Plaintiff,	)	STIPULATED REQUEST TO CONTINUE
	)	HEARING DATE TO FEBRUARY 17,
v.	)	2015 AND TO EXCLUDE TIME UNDER
	)	THE SPEEDY TRIAL ACT AND
	)	<del>PROPOSED</del> ORDER
JOSE GALLARDO	)	
	)	
Defendant.	)	Hearing Date: January 27, 2015
	)	Time: 9:30 a.m.

The above-captioned matter is set on January 27, 2015 before the Oakland Duty Magistrate for a PRELIMINARY HEARING/ARRAIGNMENT. The parties jointly request that the Court continue the matter to February 17, 2015 at 9:30 a.m. before the Oakland Duty Magistrate. The parties stipulate that the Court exclude time under the Speedy Trial Act, 18 U.S.C. §§ 3161(b),(h)(7)(A) and (B)(iv), between the date of this Stipulation and February 17, 2015. Under Fed. R. Crim. P. 5.1(d), the defendant consents to an extension of the time limit within which to hold a Preliminary hearing under Fed. R. Crim. P. 5.1(c).

The parties are currently involved in pre-indictment discussions and sharing of information, in hopes that the case can be resolved prior to indictment. Mr. Gallardo has a medical condition which requires lengthy treatment (hemodialysis) several times per week. He

1 is also housed outside of Oakland. Mr. Gallardo cannot realistically attend court proceedings or  
2 meet with counsel on dates on which he has dialysis. The government has made a plea offer to  
3 Mr. Gallardo. Defense counsel requires additional time to meet with Mr. Gallardo and an  
4 interpreter to discuss the plea offer. The parties further stipulate and agree that the ends of  
5 justice served by this continuance outweigh the best interest of the public and the defendant in a  
6 speedy trial. Accordingly, the parties agree that the period of time from the date of this  
7 stipulation to February 17, 2015, should be excluded in accordance with the provisions of the  
8 Speedy Trial Act, 18 U.S.C. §§ 3161(b),(h)(7)(A) and (B)(iv), for effective preparation of  
9 defense counsel, taking into account the exercise of due diligence.

10  
11  
12 DATED: January 20, 20145

/s/  
\_\_\_\_\_  
KATIE MADEARIS  
Assistant United States Attorney

14  
15 DATED: January 20, 2015

/s/  
\_\_\_\_\_  
JOHN PAUL REICHMUTH  
Assistant Federal Public Defender  
Counsel for Mr. Gallardo

**ORDER**

Based on the reasons provided in the stipulation of the parties above, the Court hereby  
FINDS:

1. That the defense needs time to assess and discuss a proposed plea offer with Mr. Gallardo, who has medical issues requiring frequent treatments and housing outside the immediate vicinity;

2. That these tasks are necessary to the defense preparation of the case and that the failure to grant the requested continuance would unreasonably deny counsel for defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence;

3. That the ends of justice served by this continuance outweigh the best interest of the public and the defendant in a speedy trial;

4. Through counsel, defendants consent to an extension of time in which to hold a Preliminary Hearing under Fed. R. Crim. P. 5.1(c).

Based on these findings, it is hereby

ORDERED that the matter be continued to February 17, 2015 at 9:30 a.m. before the Oakland Duty Magistrate for PRELIMINARY HEARING/ARRAIGNMENT; it is further

ORDERED that time be excluded pursuant to the Speedy Trial Act, 18 U.S.C. §§ 3161(b),(h)(7)(A) and (B)(iv), from the date of this Stipulation until February 17, 2015.

ORDERED that the time for Preliminary Hearing is extended with the defendant's consent under Fed. R. Crim. P. 5.1(c).

January 21, 2015

  
HON. KANDIS WESTMORE  
United States Magistrate Judge